REMARKS

Independent claim 1 and dependent claim 4 have been amended. Claims 2 and 3 have been cancelled. Thus, claims 1, and 4-7 are pending in the present application.

Claim rejections 35 USC §102

The Examiner rejected claims 1-3, 5-7 under 35 U.S.C. 103(a) as being unpatentable over Rangachari et al in view of Ueda et al.. Applicant amended independent claim 1 to include all limitations of former independent claim 1 and former dependent claims 2 and 3. The Examiner stated in particular with respect to former dependent claim 3 that Rangachari does not teach that the system programs comprise the back-up program. However, the Examiner stated that Ueda teaches this limitation. Applicant respectfully disagrees.

Ueda discloses a completely different concept of a back-up system. According to Ueda, a complete failure as well as any other malfunctioning of a main drive can be recovered by simply manually switching to a back-up drive. To this end, Ueda discloses the use of a manual switch which addresses the primary and secondary drive. By manually operating this switch, the secondary drive (back-up drive) can be addressed as the primary drive (main drive). However, the system according to the present invention does address a different type of malfunction prevention by providing for a recovery of a temporarily malfunctioning drive. A complete malfunctioning of a hard drive rendering that drive inoperable is not addressed in the present invention because a complete failure of a hard drive rarely happens. However, the inadvertent destruction of data on the main drive which renders this drive temporarily inoperable occurs more frequently. To recover from such an instance, the present invention claims a recover process in which data from a back-up drive is used to recover lost data on a main drive.

Ueda does not teach to recover data from the back-up drive to the main drive as required by the present claim 1. Furthermore, for the same reason, such a function which is not even present in Ueda can, therefore, also not be part of the operating system. Ueda's back-up functions are limited during normal operation to writing data to both primary and secondary drive. According to Figures 3 and 5, this specific back-up function is not part of the operating system stored on the drives but seems to be a proprietary function of the system. On

malfunction, the operator has to manually activate switch 2. Then, only the secondary drive will operate. No recovery of any data will be made. Thus, a person skilled in the art would not combine Rangachari and Ueda because they address completely different concepts for providing reliable function of an automation system. The system according to the present invention has furthermore, the advantage that a recovery can be made automatically without any manual interaction as required by Ueda.

Dependent claims 1, 4-7 include all the limitations of the independent claim 1 and are therefore patentable at least to the extent of independent claim 1.
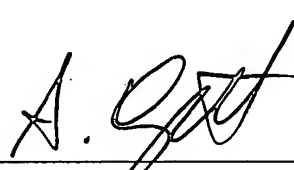
CONCLUSION

The application as defined in the pending claims is patentable under 35 U.S.C. §102 and §103 in view of the cited prior art. Therefore, applicants respectfully request withdrawal of the rejection and allowance of all pending claims.

Applicants do not believe that any other fees are due at this time; however, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to this document, the Commissioner is authorized to deduct the fees from Deposit Account No. 02-0383, *(formerly Baker & Botts, L.L.P.,)* Order Number 071308.0263

Respectfully submitted,

BAKER BOTTS L.L.P.

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